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9 BEFORE THE FAIR POLITICAL PRACTICES COMMISSION
10 STATE OF CALIFORNIA

11 In the Matter of:

12 AMERICANS FOR SAFE
13 NEIGHBORHOODS AND CANDICE
PRESSLEY,

14 Respondents.

FPPC Case No. 2018-00314

STIPULATION, DECISION AND ORDER

15
16 **INTRODUCTION**

17 Americans for Safe Neighborhoods (“Committee”) is a state general purpose committee. Candice
18 Pressley (“Pressley”) serves as the committee’s treasurer and principal officer. The Committee and
19 Pressley violated the Political Reform Act¹ (“Act”) by failing to include any disclosure statements on
20 multiple advertisements and failing to timely file campaign statements.

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28 ¹ The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

1 **SUMMARY OF THE LAW**

2 All legal references and discussions of law pertain to the Act’s provisions as they existed at the
3 time of the violations.

4 **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

5 When enacting the Political Reform Act, the people of California found and declared that previous
6 laws regulating political practices suffered from inadequate enforcement by state and local authorities.²
7 Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”³

8 One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in
9 election campaigns are fully and truthfully disclosed so that voters are fully informed and improper
10 practices are inhibited.⁴ Along these lines, the Act includes a comprehensive campaign reporting system.⁵
11 Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be
12 “vigorously enforced.”⁶

13 **Advertisement**

14 The Act generally requires that advertisements paid for by and distributed by committees must
15 include disclosure to allow the public to identify the responsible parties. Advertisement is defined to mean
16 any general or public communication that is authorized and paid for by a committee for the purpose of
17 supporting or opposing a candidate or candidates for elective office or a ballot measure of ballot
18 measures.⁷ Any advertisements paid for by a general purpose committee must include the words “Paid for
19 by” followed by the name of the committee as it appears on the most recent Statement of Organization
20 filed pursuant to Section 84101.⁸ An advertisement supporting or opposing a candidate that is paid for by
21 an independent expenditure shall include a statement that it was not authorized by a candidate or
22 committee controlled by a candidate.⁹

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26 ² Section 81001, subdivision (h).

27 ³ Section 81003.

28 ⁴ Section 81002, subdivision (a).

⁵ Sections 84200, *et seq.*

⁶ Section 81002, subdivision (f).

⁷ Section 84501, subdivision (a)(1).

⁸ Section 84502, subdivision (a)(1).

⁹ Section 84506.5.

1 An advertisement made via a form of electronic media that allows users to engage in discourse
2 and post content, or any other type of social media, shall be required to include the advertisement
3 disclosure statement on the committee’s profile, landing page, or similar location and shall not be required
4 to include the disclaimer required on each individual post, comment, or other similar communication.¹⁰

5 An advertisement that is disseminated as a video, including advertisements on television and
6 videos disseminated over the Internet, shall include the appropriate disclosure statement at the beginning
7 or end of the advertisement.¹¹ The disclosure must be written and displayed for at least five seconds of a
8 broadcast of 30 seconds or less or for at least 10 seconds of a broadcast that lasts longer than 30 seconds.

9 **Campaign Statements**

10 A state general purpose committee shall file a pre-election campaign statement if it makes
11 contributions of independent expenditures totaling \$500 or more in connection with the statewide primary
12 or general election during the period covered by the pre-election statements.¹² For the period ending 45
13 days before the election, the first pre-election statement shall be filed no later than 40 days before the
14 election. For the period ending 17 days before the election, the statement shall be filed no later than 12
15 days before the election.¹³ For the June 5, 2018 Primary Election, the first pre-election reporting period
16 was January 1, 2018 through April 21, 2018 and was due by April 26, 2018. The second pre-election
17 reporting period was April 22, 2018 through May 19, 2018 and was due by May 24, 2018. The period
18 covered by a campaign statement required to be filed means the period beginning the day after the closing
19 date of the most recent campaign statement which was required to be filed and ending with the closing
20 date of the statement in question.¹⁴

21 **Joint and Several Liability**

22 Any person who has a filing or reporting obligation under the Act may be found liable for violating
23 any provision of the Act, or who purposely or negligently cause any person to violate any provision of the
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¹⁰ Section 84504.3, subdivision (f).

27 ¹¹ Section 84504.

28 ¹² Section 84200.5, subdivision (c).

¹³ Section 84200.8.

¹⁴ Section 82046.

1 Act, or who aids and abets any other person in the violation of any provision of the Act.¹⁵ If two or more
2 persons are responsible for any violation, they shall be held jointly and severally liable.¹⁶

3 Every committee must have a treasurer.¹⁷ Committees must also identify a principal officer.¹⁸ This
4 individual is primarily responsible for approving the political activities of the committee, including, but
5 not limited to, authorizing the content of communications, authorizing expenditures, including
6 contributions, on behalf of the committee, and determining the committee’s campaign strategy.¹⁹ It is the
7 duty of the treasurer and the principal officer to ensure that the committee complies with all the
8 requirements of the Act.²⁰ For campaign reporting/filing obligations, the treasurer and the principal officer
9 are liable, along with the committee, for violations of the Act.²¹ For advertising violations, the committee
10 placing the advertisements—and all persons acting in concert with the committee—are liable.²²

11 SUMMARY OF THE FACTS

12 The Committee formed as a state general purpose committee by filing a Statement of Organization
13 with the Secretary of State on July 17, 2017. During the June 5, 2018 Primary Election, the Committee
14 created a Facebook page called, “Soft on Crime Sacramento.” The landing page for this Facebook page
15 did not include any reference to the name of the authorizing committee. Only by clicking on the “About”
16 page would a viewer find the statement, “The content on this website is authorized and paid for by
17 Americans for Safe Neighborhoods (ASN PAC) FEC Identification Number: C00648543.” Between April
18 17 and May 3, the Committee posted 23 videos opposing candidates that appeared on the ballot. The videos
19 did not include the required disclosure statement, such as “Paid for by Americans for Safe Neighborhoods.
20 This advertisement was not authorized by a candidate or a committee controlled by a candidate.”

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25 ¹⁵ Section 83116.5.

26 ¹⁶ Sections 83116.5 and 91006.

27 ¹⁷ Section 84100.

28 ¹⁸ Section 84102, subdivision (c).

¹⁹ Section 82047.6.

²⁰ Sections 81004, 84100, 84104, and 84213, and Regulation 18427.

²¹ Section 83116.5 and Regulation 18316.6.

²² Section 82047 [“person” includes any group of persons acting in concert] and 84510, subdivision (a) [imposing liability on any “person” who violations an advertising provision of the Act.] See also, Section 84505 [which applies not just to the committee placing the advertisement, but also to any “persons acting in concert with that committee.”]

1 After receiving a copy of the sworn complaint, the Committee updated the Facebook page to
2 include a disclosure statement. The Committee took down the original video posts and re-posted the 23
3 videos with a conforming disclosure statement. This was completed by May 14, 2018.

4 For the reporting period of January 1, 2018 through June 30, 2018, the Committee reported costs,
5 paid and accrued, to Facebook totaling \$2,262.07. During the same reporting period, the Committee
6 reported contributions totaling \$3,500 and reported expenditures totaling \$3,651.

7 As the Committee spent more than \$500 to oppose candidates on the ballot by the end of the second
8 pre-election reporting period, the Committee was required to file a campaign statement for the reporting
9 period of January 1, 2018 through May 19, 2018 by the deadline of May 24, 2018. A statement for the
10 reporting period of May 20, 2018 through June 30, 2018 was due by July 31, 2018. Instead, the Committee
11 filed one campaign statement for the period of January 1, 2018 through June 30, 2018 on September 25,
12 2018, which was 124 days after the pre-election campaign statement deadline, and 56 days after the semi-
13 annual campaign statement deadline.

14 VIOLATIONS

15 Count 1

16 Failure to Include Correct Disclosure Statements on Advertisements

17 The Committee and Pressley failed to include proper disclosure statements on advertisements, in
18 violation of Government Code Sections 84502, 84504, and 84506.5.

19 Count 2

20 Failure to Timely File Campaign Statements

21 The Committee and Pressley failed to timely file a pre-election campaign statement for the
22 reporting period of January 1, 2018 through May 19, 2018 by the deadline of May 24, 2018 and failed to
23 timely file a semiannual campaign statement for the reporting period of May 20, 2018 through June 30,
24 2018 by the deadline of July 31, 2018, in violation of Government Code Sections 84200.5 and 84200.

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28 PROPOSED PENALTY

1 This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per
2 count.²³ Therefore, the maximum penalty in this matter is \$10,000.

3 In determining the appropriate penalty for a particular violation of the Act, the Enforcement
4 Division considers the typical treatment of a violation in the overall statutory scheme of the Act, with an
5 emphasis on serving the purposes and intent of the Act. Additionally, the Enforcement Division considers
6 the facts and circumstances of the violation in the context of the following factors set forth in Regulation
7 18361.5 subdivision (e)(1) through (8): (1) The extent and gravity of the public harm caused by the specific
8 violation; (2) The level of experience of the violator with the requirements of the Political Reform Act;
9 (3) Penalties previously imposed by the Commission in comparable cases; (4) The presence or absence of
10 any intention to conceal, deceive or mislead; (5) Whether the violation was deliberate, negligent or
11 inadvertent; (6) Whether the violator demonstrated good faith by consulting the Commission staff or any
12 other governmental agency in a manner not constituting complete defense under Government Code Section
13 83114(b); (7) Whether the violation was isolated or part of a pattern and whether the violator has a prior
14 record of violations of the Political Reform Act or similar laws; and (8) Whether the violator, upon learning
15 of a reporting violation, voluntarily filed amendments to provide full disclosure.

16 This matter does not qualify for the streamline penalty program. While advertisement violations
17 are part of the streamline program, a Committee is ineligible where the advertisement contains more than
18 two of the following types of errors: (1) “ad paid for by” or “paid for by” requirement, (2) top contributor
19 information (top contributor must be substantially correct), (3) the statement that the advertisement was
20 not authorized by a candidate or committee controlled by a candidate, or (4) the committee name
21 requirement.²⁴ In this case, the Committee’s advertisements had more than two of these errors by missing
22 the “paid for by” language, the committee name requirement, and by failing to include the independent
23 expenditure disclaimer. In aggravation, the Committee did not disclose the contributors or expenditures
24 until well after the June primary. It should be noted that the campaign late-filing violations would otherwise
25 qualify for the streamline program.

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²³ See Section 83116, subdivision (c.)

²⁴ See Regulation 18360.3, subdivision (d)(7)(B)(i)(c).
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1 With respect to the first factor, the public harm is in the failure to include disclosure on the video
2 advertisements and on the Facebook landing page. In mitigation, the committee name could be found on
3 the Facebook page’s “About” page. In further mitigation, the Committee was responsive to the complaint
4 and made changes. The disclosures were updated within a month of the first videos being posted.

5 With respect to the second factor, this Committee was formed in 2017. According to a statement
6 made by Pressley, the Committee was relying on older disclosure rules and had not realized that the
7 advertisement rules had changed, effective January 1, 2018. This statement implies that the group or
8 persons responsible had some familiarity with the Act but failed to keep current with the rules.

9 With respect to the third factor, the following cases were considered as comparable cases:

10 [In the Matter of Kurt DeMeire](#), FPPC No. 18/1285 (The Commission approved a stipulation in this
11 matter on August 20, 2020.) DeMeire qualified as an independent expenditure committee when producing
12 several advertisements that were identical in content in support of and opposed to candidates and ballot
13 measures during the November 6, 2018 General Election. Several advertisements failed to say that they
14 were paid for by DeMeire. Instead, some stated, “Paid for by a Seal Beach citizen for NO on BB,” or “Paid
15 by Seal Beach Taxpayers.” Two advertisements correctly disclosed that DeMeire paid for the ads. None
16 of the advertisements included the independent expenditure disclaimer statement. In addition to the missing
17 advertisement disclosures, DeMeire failed to timely file a campaign statement. For violating the Act’s
18 advertisement disclosure rules, the Commission imposed a penalty of \$2,000. For failing to timely file a
19 campaign statement, the Commission imposed a penalty of \$1,000.

20 In this matter, a slightly higher penalty than the comparable case is recommended for Count 1.
21 Here, the number of advertisements with incorrect disclosures was higher than in the DeMeire case and
22 the Committee here had some experience with the Act. However, the Committee corrected the disclosures
23 shortly after contact with the Enforcement Division, thereby mitigating the public harm. A similar penalty
24 to the DeMeire case is recommended for Count 2.

25 With respect to the fourth factor, the Enforcement Division did not find evidence to support a
26 finding that there was intent to conceal, deceive, or mislead. The Committee had disclosure on the
27 Facebook page, but in the wrong place. The Committee made corrections to the disclosures upon contact.
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1 With respect to the fifth factor, the Enforcement Division did not find evidence to support a finding
2 that the violations were deliberate. The Enforcement Division contends that the violations were most likely
3 negligent. The Respondents demonstrated a willingness to make corrections and did so upon receiving the
4 complaint. The Respondents appeared to have some familiarity with the Act, contending that they were
5 not aware that the advertisement disclosure rules had changed recently, with the new rules having gone
6 into effect on January 1, 2018.

7 With respect to the sixth factor, there is no relevant information available for this factor.

8 With respect to the seventh factor, the violations appear to be isolated and limited to a single
9 election. Neither the Committee nor Pressley have prior enforcement history.

10 With respect to the eighth factor, this factor is not applicable here.

11 After considering the factors listed in Regulation 18361.5 and penalties in prior similar cases, a
12 penalty of \$2,500 is recommended for Count 1 and a penalty of \$1,000 is recommended for Count 2, for a
13 total penalty of \$3,500.

14 CONCLUSION

15 Complainant, the Enforcement Division of the Fair Political Practices Commission, and Americans
16 for Safe Neighborhoods and Candice Pressley, hereby agree as follows:

17 1. Respondents violated the Act as described in the foregoing pages, which are a true and
18 accurate summary of the facts in this matter.

19 2. This stipulation will be submitted for consideration by the Fair Political Practices
20 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

21 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose
22 of reaching a final disposition without the necessity of holding an administrative hearing to determine the
23 liability of Respondents pursuant to Section 83116.

24 4. Respondents understand, and hereby knowingly and voluntarily waive, any and all
25 procedural rights set forth in Sections 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9.
26 This includes, but is not limited to, the right to appear personally at any administrative hearing held in this
27 matter, to be represented by an attorney at Respondents' own expense, to confront and cross-examine all
28 witnesses testifying at the hearing, to subpoena witnesses to testify at the hearing, to have an impartial

1 administrative law judge preside over the hearing as a hearing officer, and to have the matter judicially
2 reviewed.

3 5. Respondents agree to the issuance of the decision and order set forth below. Also,
4 Respondents agree to the Commission imposing against them an administrative penalty in the amount of
5 \$3,500. One or more payments totaling said amount—to be paid to the General Fund of the State of
6 California—is/are submitted with this stipulation as full payment of the administrative penalty described
7 above, and same shall be held by the State of California until the Commission issues its decision and order
8 regarding this matter.

9 6. If the Commission declines to approve this stipulation—then this stipulation shall become
10 null and void, and within fifteen business days after the Commission meeting at which the stipulation is
11 rejected, all payments tendered by Respondents in connection with this stipulation shall be reimbursed to
12 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before
13 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,
14 shall be disqualified because of prior consideration of this Stipulation.

15 7. The parties to this agreement may execute their respective signature pages separately. A
16 copy of any party’s executed signature page, including a hardcopy of a signature page transmitted via fax
17 or as a PDF email attachment, is as effective and binding as the original.

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19 Dated: _____

Angela J. Brereton, Chief of Enforcement
Fair Political Practices Commission

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22 Dated: _____

Candice Pressley, individually and on behalf of
Americans for Safe Neighborhoods

1 The foregoing stipulation of the parties “Americans for Safe Neighborhoods and Candice
2 Pressley,” FPPC Case No. 2018-00314 is hereby accepted as the final decision and order of the Fair
3 Political Practices Commission, effective upon execution below by the Chair.

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5 IT IS SO ORDERED.

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7 Dated: _____

Richard C. Miadich, Chair
Fair Political Practices Commission